



Comptroller General  
of the United States

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Washington, D.C. 20548

## Decision

**Matter of:** Gelco Services, Inc.--Reconsideration

**File:** B-253376.2

**Date:** October 27, 1993

Wade R. Dann, Esq., Dann, Greenberg & Radder, for the protester.

Robert W. O'Connor, Esq., McDonough, Holland & Allen, for Mocon Corporation, an interested party.

Behn Miller, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Request for reconsideration of decision denying protest of contract award for sewer rehabilitation services is denied where protester merely disagrees with General Accounting Office's conclusion that prime contractor's reliance on lower tier contractor's project experience to comply with solicitation's definitive responsibility criterion is unobjectionable.

### DECISION

Gelco Services, Inc., requests reconsideration of our decision, Gelco Servs., Inc., B-253376, Sept. 14, 1993, 93-2 CPD ¶ \_\_\_, in which we denied its protest of the award of a contract to Mocon Corporation under invitation for bids (IFB) No. B198949, issued by the Regents of the University of California (University) for sanitary sewer pipeline rehabilitation at the Department of Energy (DOE) Lawrence Livermore National Laboratory (LLNL) research facility located in Livermore, California.<sup>1</sup>

We deny the request for reconsideration.

The solicitation required bidders to propose one of two patented sewer rehabilitation processes--either the Inliner or Insituform relining method--and set forth the following definitive responsibility project experience criterion:

<sup>1</sup>The University conducted the procurement by or for DOE in its capacity as an LLNL site management and operations (M&O) contractor.

"[t]he [s]ubcontractor shall show evidence of having adequate experience in the relining of sanitary sewer systems. The [s]ubcontractor shall submit a list of five successfully completed sewer relining projects within the last (3) years that are of similar size, design, and complexity to include: relining, video inspection [of] sanitary sewer systems, and required cleaning. Within these five submitted projects, three shall include work on projects involving relining of sanitary sewer systems with at least 4,000 feet of pipe from 4 to 12 inches in diameter."

Mocon Corporation offered the Inliner sewer rehabilitation method for this procurement. To demonstrate compliance with the project experience definitive responsibility criterion set forth above, Mocon indicated in its bid that the Inliner licensor--who held the requisite project experience--would "supervise and assist" Mocon for the duration of its contract performance, and submitted two Mocon-Inliner contract agreements which clearly established Inliner's supervision/assistance obligation.

In its protest, Gelco contended that Mocon's reliance on Inliner to comply with the solicitation's project experience definitive responsibility criterion was improper since Inliner would not be performing any of the manual labor. In this regard, the record showed that while Mocon had performed numerous sliplining sewer rehabilitation projects of similar or more difficult complexity, none of these projects involved the cured-in-place-pipe (CIPP) process which is an integral component of both the Inliner method.


Based on Inliner's supervision/assistance role, and Mocon's experience in performing a similar "sliplining" sewer rehabilitation method, we concluded that it was reasonable for the University to find that Mocon complied with the solicitation's project experience definitive responsibility criterion.

On reconsideration, Gelco asserts that the prior decision is "bad law," and purports to demonstrate the error of the prior decision "by way of analogy," specifically, an automobile racing "hypothetical" wherein the protester concludes that a stock car driver's racing experience is insufficient to qualify that driver for European Grand Prix automobile racing. The crux of the protester's reconsideration request is a repetition of its initial argument that Mocon could not properly rely on Inliner's experience since Inliner is a licensor rather than a subcontractor, and is not obligated to perform any actual labor under the contract.

We considered this argument at length in our initial decision. The protest record showed that Mocon's sliplining skills and expertise were identical--if not superior--to those required for successful performance of the Inliner method; the only experience which Mocon lacked was in performing the CIPP curing process. Given Mocon's sliplining capabilities and Inliner's unquestionable commitment to supervise this stage of the pipeline rehabilitation, we concluded that Mocon's reliance on Inliner's CIPP project experience to qualify under the project experience definitive responsibility criterion was unobjectionable. See Tama Kensetsu Co., Ltd., and Nippon Hodo, B-233118, Feb. 8, 1989, 89-1 CPD ¶ 128 (experience of a technically qualified subcontractor generally may be used to satisfy definitive responsibility criteria relating to experience for a prime contractor); DJ Enters., Inc., B-233410, Jan. 23, 1989, 89-1 CPD ¶ 59 (corporation may apply the individual experience of its management personnel to meet an experience definitive responsibility criterion).

Under our Bid Protest Regulations, to obtain reconsideration the requesting party must either show that our prior decision contains errors of fact or law, or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1993). Gelco has not met this standard here. Rather, Gelco's request for reconsideration--consisting as it does of repetition of its initial contention and its general assertions that our decision is incorrect--amounts to mere disagreement with our conclusion, and thus provides no basis to reconsider our prior decision. See Loral Data Sys.--Recon., B-250532.4, July 20, 1993, 93-2 CPD ¶ 38.

The request for reconsideration is denied.

  
for James F. Hinchman  
General Counsel